

Amendment No. \_\_\_\_\_

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Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 5\***

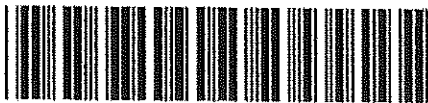
**House Bill No. 10**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 16-2-506(19)(A), is amended by adding the following as a new subdivision:

Effective September 1, 2018, there is created an additional trial court in the nineteenth judicial district. The type of court, type of judge to preside over the court, and part of court shall be designated as provided in § 16-2-512. The governor shall appoint a person to serve as an additional judge or chancellor, and the person so appointed shall serve in that capacity until September 1, 2020, or until the person's successor is elected and qualified. At the August 2020 general election, the qualified voters of the nineteenth judicial district shall elect an additional judge or chancellor to serve the court and part of court designated pursuant to § 16-2-512. The person elected at that time shall serve until September 1, 2022, or until the person's successor is elected and qualified. At the August 2022 general election, and every eight (8) years thereafter, the qualified voters of the nineteenth judicial district shall elect an additional judge or chancellor for a full eight-year term.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.



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House Civil Justice Subcommittee Am. #1

Amendment No. \_\_\_\_\_

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Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 1971**

**House Bill No. 1772\***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 66, Chapter 21, Part 1, is amended by adding the following new section:

(a) As used in this section, "public official" means:

(1) An individual who is a current or retired elected or appointed government official, including a state, county, metropolitan, or municipal official;

(2) An individual who is the head of a division or major unit or department within an agency or office of the executive, judicial, or legislative branch of state, county, metropolitan, or municipal government, regardless of the title of the position, and who, as a substantial part of the individual's duties, provides meaningful input on the development of policy goals or the implementation of policy;

(3) A high-ranking employee within the executive, judicial, or legislative branch of state, county, metropolitan, or municipal government who has a primary responsibility for one (1) or more of the following functions:

- (A) Public information and legislative affairs;
- (B) Fiscal, budget, and audit matters;
- (C) Legal, security, or internal affairs;
- (D) Information technology systems; and



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(E) Human resources;

(4) A first responder, as defined in § 29-34-203; or

(5) A law enforcement officer, as defined in § 39-11-106.

(b)

(1) A public official who is the subject of a lien, encumbrance, or any other document that reasonably constitutes a cloud on the title of a real property interest, filed with the register of any county, may file with the register a notarized affidavit, signed under penalty of perjury, that contains:

(A) A recital designating the type of instrument, office, book, and page number of the instrument;

(B) The affiant's mailing address;

(C) A statement that the affiant is a public official;

(D) A statement that the affiant believes that the document was filed without any reasonable basis or legal cause, and the affiant's factual basis for why the filed document lacks any reasonable basis or legal cause; and

(E) A statement that the affiant is not filing the affidavit contesting any document held by any entity listed in subsection (k).

(2) The secretary of state shall adopt a form of affidavit for use under subdivision (b)(1) and a form of certification for use under subsection (f).

(c) Once an affidavit is filed with the register pursuant to subdivision (b)(1), the register shall indicate on any available indices that the document referenced in subdivision (b)(1)(A) is "Contested - Under Review."

(d)

(1) Within three (3) business days of filing an affidavit filed pursuant to subdivision (b)(1), the public official shall send a copy of the affidavit, by registered or certified mail, with return receipt requested, addressed to the filing party at the address listed on the lien, encumbrance, or other document.

(2) The copy of the affidavit is deemed delivered upon:

(A) Acceptance by the filing party;

(B) A showing that the filing party refused to accept delivery and it is so stated in the return receipt of the United States postal service; or

(C) The United States postal service returning the affidavit as undeliverable or unclaimed.

(3) The refusal or failure of the filing party to accept delivery of the registered or certified mail, or the refusal or failure to sign the return receipt, does not affect the validity of delivery of the affidavit, and a filing party who refuses or fails to accept delivery of the registered or certified mail is charged with knowledge of the contents of the affidavit.

(e)

(1) Within twenty (20) business days of delivery of the affidavit to the filing party or refusal or failure to sign the return receipt, or notice by the United States postal service that the affidavit is undeliverable, a filing party who believes in good faith that the lien, encumbrances, or other document was filed with a reasonable basis or legal cause, may file an action seeking a determination in the chancery court of the county where the document was filed pursuant to title 29, chapter 14. The action must name the public official as an interested party in its caption.

(2) A petition filed pursuant to subdivision (e)(1) must set forth the factual basis showing that the filed lien, encumbrance, or other document was filed with a reasonable basis or legal cause, and must be accompanied by a cost bond in the amount of two hundred dollars (\$200).

(3) Any person who shares a property interest with the public official that is adversely affected by the filed lien, encumbrance, or other document may join in the action as an interested party.

(4) Following a reasonable period for responsive pleadings and discovery, the chancellor shall preside over a hearing at which proof may be offered on the issues raised and shall make a determination and issue a decree as to whether the lien, encumbrance, or other document was filed with any reasonable basis or legal cause at the close of the proceedings.

(f)

(1) If, within twenty (20) business days of delivery of the affidavit to the filing party under subdivision (d), a petition and cost bond has not been filed as required by subdivision (e)(2), the public official may file with the register a certification, signed by the public official under penalty of perjury and verified by the clerk and master, stating that no petition has been filed.

(2) If the lien, encumbrance, or other document described in subdivision (b)(1) does not contain the name or address of the filing party, plaintiff, complainant, lienor, or owner of the lien, the public official may file with the register a certification, signed by the public official under penalty of perjury stating that the aforementioned name or address was not available.

(3) Any certification filed pursuant to subdivision (f)(1) or (f)(2)

must include a recital designating the type of instrument, office, book, and page number of the instrument identifying the lien, encumbrance, or other document referenced in the affidavit filed pursuant to subdivision (b)(1) and shall serve as a release of the lien, encumbrance, or other document.

(g) If, following the hearing on a petition filed under subsection (e), the chancellor determines that there is reasonable basis or legal cause for the filing of the document, the filing party may file a final, unappealable court decree with the register, and the register shall remove the "Contested - Under Review" indication from the public records and the effectiveness of the lien, encumbrance, or other document must be reflected as the original date of filing.

(h) If, following the hearing on a petition filed under subsection (e), the chancellor determines that the lien, encumbrance, or other document was filed without any reasonable basis or legal cause, the public official may file a final, unappealable court decree with the register which shall serve as a release of the lien, encumbrance, or other document.

(i) The prevailing party in any action filed pursuant to subsection (e), including any person sharing a property interest with the public official, may recover costs and expenses, including reasonable attorneys' fees that are incurred in the action.

(j) Any governmental entity, as defined in § 29-20-102, may elect to insure or indemnify any public official for the cost of defending and removing liens, encumbrances, or other documents as described in this section, or any financing statements similarly filed and challenged pursuant to § 47-9-513(e), and for any other costs related to defending and removing a lien, encumbrance, or other document, but not including consequential damages. Any insurance or indemnification pursuant to this subsection (j) must be upon terms and conditions as the governmental entity establishes.

(k) This section providing for affidavits filed by public officials contesting liens, encumbrances, or other documents that reasonably constitute a cloud on the title of a real property interest does not apply to liens, encumbrances, or other documents if the originator, owner, or holder of the debt is any of the following:

- (1) A state or national bank or trust company insured by the federal deposit insurance corporation or an operating subsidiary of such a bank or trust company;
- (2) A state or federal credit union insured by the national credit union administration;
- (3) A residential mortgage lender or an industrial loan and thrift company licensed by the Tennessee department of financial institutions;
- (4) An entity regulated by the federal farm credit administration;
- (5) The federal housing administration (FHA);
- (6) A federal home loan bank;
- (7) The federal national mortgage association (FannieMae);
- (8) The federal home loan mortgage corporation (FreddieMac);
- (9) The federal agricultural mortgage corporation (FarmerMac);
- (10) The veterans administration (VA); or
- (11) Any lien, encumbrance, or other document that is filed with the register, where the mortgage electronic registration system is listed as the nominee for the originator, owner, or holder of the debt.

SECTION 2. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2018, and shall apply to liens, encumbrances, or other documents, regardless of when filed, the public welfare requiring it.

Amendment No. \_\_\_\_\_

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Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 1931\***

**House Bill No. 2019**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 37, Chapter 2, Part 4, is amended

by adding the following as a new section:

(a) This section shall be known and may be cited as the "Foster Care Support and Continuity Act."

(b) When a foster child is reunited with a biological parent or placed with a fit and willing relative, a foster parent who has maintained continuous physical custody of the child for six (6) months or more may maintain communication with the foster child if the child exhibits a reasonable preference for continued contact with the foster parent and such contact does not jeopardize the child's health or welfare, as determined by the court, or, if the child is reunited with the biological parent, the communication is not opposed by the biological parent. Communication may include regular visits with the child at times and in a manner agreed upon by the biological parent or relative and the foster parent.

(c) Notwithstanding this part to the contrary, a former foster parent may be considered for emergency placement of a foster child, under applicable departmental policy, if a significant relationship exists between the former foster parent and the child. If the former foster parent has relevant information regarding the child's medical or social history, the department may disclose the former foster parent's name to a treatment provider or other necessary party in order to ensure



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continuity of care for the child. The department may consider the former foster parent as an informal form of social support for the child.

(d)

(1) If a foster parent maintains physical custody of a foster child for twelve (12) continuous months or more or fifteen (15) months out of the previous twenty-two (22) months, the foster parent shall have standing to file for permissive intervention in any custody hearings involving the foster child.

(2) The department shall not disrupt placements with the purpose of precluding foster parents from obtaining standing under subdivision (d)(1).

SECTION 2. For purposes of promulgating rules, forms, and policies, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2018, the public welfare requiring it.

Amendment No. \_\_\_\_\_

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Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 2480\***

**House Bill No. 2620**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 8-6-109(b), is amended by adding the following language as a new subdivision:

(A) To defend a local education agency (LEA) or an LEA's employees, in an employee's individual or official capacity, upon the LEA's or employee's formal request in writing, in any court or administrative tribunal arising out of an LEA's adoption of a policy or practice designed to protect the privacy of students from exposure to others of the opposite biological sex in situations where students may be in various states of undress by designating multi-person restrooms, locker rooms, or other facilities for use based only on one's biological sex. Such policy may, however, make other appropriate accommodations for those who do not wish to use those facilities designated on the basis of biological sex. In the event that the attorney general and reporter determines that the best interest of the state, or that of the LEA or employee, requires private counsel, the LEA or employee shall be notified and shall have the right to file for reimbursement of defense costs, subject to the limits of § 29-20-113, in accordance with chapter 42 of this title in the same manner as state employees. As used in this subdivision (b)( ), "employee" or "employees" means an LEA's present or past director of schools, board members, teachers, or nonprofessional staff members.

(B) The duty to defend an LEA or LEA's employees pursuant to this subdivision (b)( ) does not apply to willful, malicious, or criminal acts or omissions or for acts or omissions done for personal gain.



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SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring

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Amendment No. \_\_\_\_\_

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Signature of Sponsor

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Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 976\***

**House Bill No. 1086**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 36-6-306, is amended by deleting the section in its entirety and substituting instead the following:

(a) Any of the following circumstances, when presented in a petition for grandparent visitation to the circuit, chancery, general sessions courts with domestic relations jurisdiction, or juvenile court in matters involving children born out of wedlock of the county in which the petitioned child currently resides, necessitates a hearing if:

(1)

(A) The grandparent visitation is opposed by the custodial parent or parents or custodian; or

(B) Grandparent visitation is authorized by the custodial parent or parents or custodian, but the authorized visitation is merely token visitation; and

(2)

(A) The father or mother of an unmarried minor child is deceased;

(B) The child's father or mother are divorced, legally separated, or were never married to each other;

(C) The child's father or mother has been missing for not less than six (6) months;

(D) The court of another state has ordered grandparent visitation;



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(E) The child resided in the home of the grandparent for a period of twelve (12) months or more and was subsequently removed from the home by a parent or custodian; or

(F)

(i) The child and the grandparent maintained a significant existing relationship for a period of twelve (12) months or more immediately preceding the severance or severe reduction of the relationship;

(ii) This relationship was severed or reduced to token visitation by the parent, parents, or custodian for reasons other than abuse or presence of a danger of substantial harm to the child; and

(iii) The severance or severe reduction of this relationship is likely to result in severe emotional harm to the child.

(b)

(1) In considering a petition for grandparent visitation, the court must first determine the presence of a danger of substantial harm to the child. A finding of substantial harm may be based upon the relationship between an unmarried minor child and the child's grandparent being severed or reduced to token visitation if the court determines, upon proper proof, that:

(A) The child had such a significant existing relationship with the grandparent that the severance or severe reduction of the relationship is likely to result in severe emotional harm to the child;

(B) The grandparent functioned as a primary caregiver such that the severance or severe reduction of the relationship could interrupt provision of the daily needs of the child and result in physical or emotional harm; or

(C) The child had a significant existing relationship with the grandparent and the severance or severe reduction of the relationship presents the danger of other direct and substantial harm to the child.

(2) For purposes of this section, a grandparent is deemed to have a significant existing relationship with a grandchild if:

(A) The child resided with the grandparent for at least six (6) consecutive months;

(B) The grandparent was a full-time caretaker of the child for a period of not less than six (6) consecutive months; or

(C) The grandparent had frequent visitation with the child for a period of not less than one (1) year.

(3) A grandparent is not required to present the testimony or affidavit of an expert witness to establish a significant existing relationship with a grandchild or that the severance or severe reduction of the relationship is likely to result in severe emotional harm to the child. Instead, the court shall consider whether the facts of the particular case would lead a reasonable person to believe that there is a significant existing relationship between the grandparent and grandchild or that the loss or severe reduction of the relationship is likely to result in severe emotional harm to the child.

(4) For the purposes of this section, if the child's parent is deceased and the grandparent seeking visitation is the parent of that deceased parent, there shall be a rebuttable presumption of substantial harm to the child based upon the severance or severe reduction of the relationship between the child and grandparent and the likelihood of the child losing the ability to learn about the deceased parent and the need of the child to keep the deceased parent's memory alive by having a relationship with the deceased parent's family.

(5) Notwithstanding this subsection (b):

(A) A grandparent-grandchild relationship under subdivision (a)(2)(E) establishes a rebuttable presumption that denial of visitation or token visitation may result in substantial harm to the child; and

(B) If the child's parent has died within the previous twelve (12) months and the child does not have a significant existing relationship with the grandparent, the court may consider whether there is a danger of substantial harm to the child based upon the likelihood of the child losing the ability to learn about the deceased parent and the need of the child to keep the deceased parent's memory alive by having a relationship with the deceased parent's family.

(c) Upon an initial finding of danger of substantial harm to the child, the court shall then determine whether grandparent visitation would be in the best interests of the child based upon the factors in § 36-6-307. Upon such determination, reasonable visitation may be ordered.

(d)

(1) Notwithstanding § 36-1-121, if a relative or stepparent adopts a child, this section applies.

(2) If a person other than a relative or a stepparent adopts a child, any visitation rights granted pursuant to this section before the adoption of the child shall automatically end upon such adoption.

(e) Notwithstanding any law to the contrary, as used in this part, with regard to the petitioned child, the word "grandparent" includes, but is not limited to:

(1) A biological grandparent;

(2) The spouse of a biological grandparent;

(3) A parent of an adoptive parent; or

(4) A biological or adoptive great-grandparent or the spouse of the great-grandparent.

(f) For purposes of this section, "token visitation" means that the visitation, under the circumstances of the individual case, constitutes nothing more than perfunctory visitation or visitation of such an infrequent nature or of such short duration as to merely establish minimal or insubstantial contact with the child.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.



Amendment No. \_\_\_\_\_

\_\_\_\_\_  
Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 1500\***

**House Bill No. 1939**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-17-1306(c), is amended by adding the following as a new subdivision:

(4)

(A) Is in the actual discharge of official duties as a county commissioner

and:

(i) Is authorized to carry a handgun pursuant to § 39-17-1351;

and

(ii) Is in a building in which county commission meetings are held,

but is not in the room in which judicial proceedings are in progress.

(B) As used in this subdivision (c)(4), "county commissioner" means a member of a local legislative body known as a board of county commissioners and does not include a member of the legislative body of a metropolitan government.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it.



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House Civil Justice Subcommittee Am. #1

Amendment No. \_\_\_\_\_

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Signature of Sponsor

AMEND Senate Bill No. 2120\*

House Bill No. 2526

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

by deleting the last section and substituting instead the following:

SECTION \_\_. This act shall take effect July 1, 2018, the public welfare requiring it, and shall apply to actions commenced on or after that date.



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Amendment No. \_\_\_\_\_

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Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 1601\***

**House Bill No. 1793**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 29, is amended by adding the following as a new chapter:

**29-40-101.** As used in this chapter:

(1) "Abusive civil action" means a civil action filed by a plaintiff:

(A) Against a defendant with whom the plaintiff shares a civil action party relationship;

(B) Primarily to harass or maliciously injure the defendant; and

(C) When at least one (1) of the following factors are applicable:

(i) Claims, allegations, and other legal contentions made in the civil action are not warranted by existing law or by a reasonable argument for the extension, modification, or reversal of existing law, or the establishment of new law;

(ii) Allegations and other factual contentions made in the civil action are without the existence of evidentiary support; or

(iii) Issue or issues that are the basis of the civil action have previously been filed in one (1) or more other courts or jurisdictions by the same, and the actions have been litigated and disposed of unfavorably to the plaintiff;



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(2) "Abusive civil action plaintiff" means a person who files a civil action that a court of record has determined to be an abusive civil action and against whom prefilling restrictions have been imposed pursuant to this chapter;

(3) "Civil action" means a civil action, as defined in Rule 2 of the Tennessee rules of civil procedure;

(4) "Civil action defendant" means a person or persons against whom a civil action has been filed that a court of record has determined to be an abusive civil action and imposed prefilling restrictions against the abusive civil action plaintiff pursuant to this chapter;

(5) "Civil action party relationship" means the plaintiff commencing a civil action and the civil action defendant fall within one (1) of the following categories:

(A) Adults who are current or former spouses;

(B) Adults who live together or who have lived together;

(C) Adults who are dating or who have dated or who have or had a sexual relationship. As used in this subdivision (5)(C), "dating" and "dated" do not include fraternization between two (2) individuals in a business or social context;

(D) Adults related by blood or adoption;

(E) Adults who are related or were formerly related by marriage; or

(F) Adult children of a person in a relationship that is described in subdivisions (5)(A)-(E); and

(6) "Harass or maliciously injure" means the civil action determined to be an abusive civil action was filed with the intent or was primarily designed to:

(A) Exhaust, deplete, impair, or adversely impact the civil action defendant's financial resources unless:

(i) Punitive damages are requested and appropriate; or

(ii) A change in the circumstances of the parties provides a good faith basis to seek a change to a financial award, support, or distribution of resources;

(B) Prevent or interfere with the ability of the civil action defendant to raise a child or children for whom the civil action defendant has legal custody in the manner the civil action defendant deems appropriate unless the civil action plaintiff has a lawful right to interfere and a good faith basis for doing so;

(C) Force, coerce, or attempt to force or coerce the civil action defendant to agree to or make adverse concessions concerning financial, custodial, support, or other issues when the issues in question have been previously litigated and decided in favor of the civil action defendant;

(D) Force, coerce, or attempt to force or coerce the civil action defendant to alter, engage in, or refrain from engaging in conduct when the conduct is lawful and is conduct in which the civil action defendant has the right to engage;

(E) Impair, or attempt to impair the health or well-being of the civil action defendant or a dependent of the civil action defendant;

(F) Prevent, interfere, or adversely impact the ability of the civil action defendant to pursue or maintain a livelihood or lifestyle at the same or better standard as the civil action defendant enjoyed prior to the filing of the action primarily for the purpose of harassing or maliciously injuring the civil action defendant; or

(G) Impair, diminish, or tarnish the civil action defendant's reputation in the community or alienate the civil action defendant's friends, colleagues, attorneys, or professional associates by subjecting parties without knowledge of or not reasonably relevant to the civil action to unreasonably or unnecessarily complex, lengthy, or intrusive interrogatories or depositions.

**29-40-102.** This chapter shall only apply to a civil action filed by a plaintiff against a defendant or defendants with whom the plaintiff shares a civil action party relationship.

**29-40-103.**

(a) If a civil action is filed and the defendant to the action believes it to be an abusive civil action, the claim may be raised by the defendant:

- (1) In the answer to the civil action; or
- (2) By motion made at any time during the civil action.

(b) The court may, on its own motion, determine that a hearing pursuant to § 29-40-104 is necessary to determine if the civil action is an abusive civil action.

**29-40-104.**

(a) If the defendant to a civil action alleges, either by answer to the civil action or by motion made at any time the action is pending, that the action constitutes an abusive civil action and that the person filing the action is an abusive civil action plaintiff, the court shall conduct a hearing in the same manner as a motion for summary judgment under Rule 56 of the Tennessee Rules of Civil Procedure.

(b) At the time set for the hearing on the alleged abusive civil action, the court shall hear all relevant testimony and may require any affidavits, documentary evidence, or other records the court deems necessary.

**29-40-105.**

At the hearing conducted pursuant to § 29-40-104, evidence of any of the following creates a rebuttable presumption that the civil action is an abusive civil action and that the person filing the action is an abusive civil action plaintiff and prefilling restrictions should be imposed upon the abusive civil action plaintiff:

- (1) The same or substantially similar issues between the same or substantially similar civil action parties that are the subject of the alleged abusive civil action have been litigated against the civil action defendant within the past five (5) years in another court within the judicial district or another judicial district

and the actions were dismissed on the merits or with prejudice against the civil action plaintiff;

(2) The alleged abusive civil action plaintiff has used the same or substantially similar issues that are the subject of the current civil action as the basis for an adverse complaint against the civil action defendant to a regulatory or licensing board and the regulatory or licensing board dismissed the complaint after a contested case hearing in compliance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;

(3) The alleged abusive civil action plaintiff has been sanctioned under Rule 11 of the Tennessee Rules of Civil Procedure or a similar rule or law in another state or the federal government for filing one (1) or more frivolous, vexatious, or abusive civil actions within the past ten (10) years of filing the current civil action alleged to be abusive and the previous frivolous, vexatious, or abusive civil actions involved the same or substantially the same issues between the same or substantially the same civil action parties; or

(4) A court of record in another judicial district has determined that a civil action filed against the civil action defendant was an abusive civil action and is under or has been under prefilling restrictions in that judicial district.

**29-40-106.**

(a) If the court finds by a preponderance of the evidence that a person filing a civil action is an abusive civil action plaintiff, and that any or all civil actions filed by the abusive civil action plaintiff against the abusive civil action defendant that are pending before the court are abusive civil actions, the civil actions shall be dismissed.

(b) In addition to dismissal of any pending abusive civil action within the jurisdiction of the court, the court shall:

(1) Tax all costs of any abusive civil action pending in the court at the time of the court's finding pursuant to subsection (a) against the abusive civil action plaintiff;

(2) Award the civil action defendant reasonable attorney fees and all reasonable costs of defending the abusive civil action; and

(3) Impose prefiling restrictions upon any civil action the abusive civil action plaintiff attempts to file for a period of not less than forty-eight (48) months nor more than seventy-two (72) months.

(c) If a civil action defendant alleges that a claim is an abusive civil action or that the plaintiff is an abusive civil action plaintiff, and the court finds by a preponderance of the evidence that the action was not an abusive civil action or that the plaintiff is not an abusive civil action plaintiff, the court may grant to the plaintiff such remedies as may be just, including granting judgment in favor of the plaintiff, granting partial judgment in favor of the plaintiff, or allowing factual interpretations in favor of the plaintiff.

(d) If a civil action defendant alleges that a claim is an abusive civil action or that the plaintiff is an abusive civil action plaintiff, and the court finds by a preponderance of the evidence that the action was not an abusive civil action or that the plaintiff is not an abusive civil action plaintiff, the court may:

(1) Tax all costs related to litigating the issue of whether the action is an abusive civil action or whether the plaintiff is an abusive civil action plaintiff, against the civil action defendant who made the claim; and

(2) Award the civil action plaintiff reasonable attorney fees and all reasonable costs of defending the claim that the action was an abusive civil action or that the plaintiff was an abusive civil action plaintiff.

**29-40-107.**

(a) Except as provided in this section, a person whom a court of record has determined to be an abusive civil action plaintiff and against whom prefiling restrictions



have been imposed is prohibited from instituting a civil action against the abusive civil action defendant for the period of time the prefiling restrictions are in effect, or from continuing a civil action that was instituted against the same civil action defendant prior to the date the person was determined to be an abusive civil action plaintiff.

(b) Notwithstanding subsection (a) and consistent with the constitution of Tennessee, Article I, § 17, an abusive civil action plaintiff against whom prefiling restrictions have been imposed may seek permission to file a civil action using the procedure set out in subsection (c).

(c)

(1) An abusive civil action plaintiff against whom prefiling restrictions have been imposed pursuant to this chapter who wishes to institute a civil action in a court of record during the time the abusive civil action plaintiff is under filing restrictions must first appear before the judge who imposed the prefiling restrictions to make application for permission to institute the civil action.

(2)

(A) The judge may examine witnesses, including the abusive civil action plaintiff and the civil action defendant, to determine if the proposed civil action is or is not an abusive civil action and if there are reasonable and legitimate grounds upon which the complaint is based.

(B) There is a rebuttable presumption that any proposed civil action is an abusive civil action if any of the defendants in the proposed action were civil action defendants in one (1) or more of the actions that were the basis for the person being declared an abusive civil action plaintiff.

(3)

(A) If the judge who imposed the prefiling restrictions believes that the civil action the abusive civil action plaintiff is making application to

file will be an abusive civil action, the application shall be denied and the judge shall determine a time when the person may next make application to file a civil action.

(B) If the judge reasonably believes that the civil action the abusive civil action plaintiff is making application to file will not be an abusive civil action, the judge may grant the application and issue an order permitting the filing of the civil action. The order shall be attached to the front of the complaint when the abusive civil action plaintiff files the civil action with the clerk. The defendant to the action shall be served with a copy of the order at the same time the complaint is served.

(4) The findings of the judge shall be reduced to writing and made a part of record in the matter. If the abusive civil action plaintiff disputes the finding of the judge, the abusive civil action plaintiff may appeal to the presiding judge of the judicial district of the sanctioning judge. If the sanctioning judge is the presiding judge, the presiding judge shall randomly select two (2) other judges of courts of record in the judicial district to review the findings of the sanctioning judge. If there are not two (2) other judges in the judicial district available, the presiding judge may select a judge from an adjoining judicial district to review the findings. If the presiding judge or both reviewing other judges believe that the civil action the person is making application to file is not an abusive civil action, the findings of the sanctioning judge are overruled and both judges shall sign an order permitting the filing of the action. The order shall be entered and attached to the complaint and the defendant shall be served with a copy of the order at the same time the complaint is served.

(d) If the application for the filing of a civil action is granted pursuant to this section, the period of time commencing with the filing of the application requesting permission to file the action and ending with the issuance of an order permitting filing of

the action shall not be computed as a part of an applicable period of limitations within which the civil action must be instituted.

(e) If after an abusive civil action plaintiff has made application and been granted permission to file a civil action pursuant to this section, the judge with jurisdiction over the action determines that the person is attempting to add parties, amend the complaint, or is otherwise attempting to alter the parties and issues involved in the civil action in a manner that the judge reasonably believes would make the action an abusive civil action, the judge may order a continuance or nonsuit of the action and return it to the presiding judge for further disposition.

(f)

(1) If a civil action defendant is served with a complaint from an abusive civil action plaintiff who filed a civil action in a judicial district in which the person has not been determined to be an abusive civil action plaintiff, and the complaint does not have an attached order from the judge who imposed the prefiling restrictions, the civil action defendant may obtain a certified copy of the order finding the person to be an abusive civil action plaintiff in another jurisdiction and send it to the judge where the new civil action was filed and the judge who imposed the prefiling restrictions.

(2) If it is brought to the attention of the court, or on the court's own motion, that a person against whom prefiling restrictions have been imposed has filed a civil action or continued a legal proceeding in the sanctioning judge's judicial district, or in another judicial district, without application to do so being granted by the sanctioning judge pursuant to this section, or the abusive civil action plaintiff has attempted to file an action through another party, the court in which the civil action is pending shall dismiss the action or revoke the continuance. The sanctioning judge may take whatever action against the abusive civil action plaintiff deemed necessary for a violation of the court's order.

(3) If an abusive civil action plaintiff against whom prefilng restrictions have been imposed files a civil action and the order granting permission to file the action is not attached to the complaint or served on the defendant, the defendant is under no obligation or duty to respond to the complaint, answer interrogatories, appear for depositions, or any other responsive action required by rule or statute in a civil action.

(g) If the judge who imposed the prefilng restrictions is no longer serving in the same capacity in the same judicial district where the restrictions were placed, any other judge in that judicial district may perform the review required and permitted by this section.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it.

Evidence of conduct constituting an abusive civil action under this chapter that occurred prior to the effective date of this act may be used for a motion made pursuant to § 29-40-103(a) on or after the effective date.

Amendment No. \_\_\_\_\_

\_\_\_\_\_  
Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 1851**

**House Bill No. 1856\***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 36-1-102(1)(A)(i), is amended by deleting the language "proceeding or pleading" and substituting instead the language "proceeding, pleading, petition, or any amended petition".

SECTION 2. Tennessee Code Annotated, Section 36-1-102(1), is amended by deleting the words "willful" and "willfully" wherever they appear and by adding the following new subdivision:

( ) For purposes of this subdivision (1), it shall be a defense to abandonment for failure to visit or failure to support that a parent or guardian's failure to visit or support was not willful. The parent or guardian shall bear the burden of proof that the failure to visit or support was not willful. Such defense must be established by a preponderance of evidence. The absence of willfulness is an affirmative defense pursuant to Rule 8.03 of the Tennessee Rules of Civil Procedure;

SECTION 3. Tennessee Code Annotated, Section 36-1-102(1)(A)(ii), is amended by deleting the subdivision and substituting instead the following:

(ii)

(a) The child has been removed from the home or the physical or legal custody of a parent or parents or guardian or guardians by a court order at any stage of proceedings in which a petition has been filed in the juvenile court alleging that a child is a dependent and neglected child, and the child was placed in the custody of the department or a licensed child-placing agency;



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(b) The juvenile court found, or the court where the termination of parental rights petition is filed finds, that the department or a licensed child-placing agency made reasonable efforts to prevent removal of the child or that the circumstances of the child's situation prevented reasonable efforts from being made prior to the child's removal; and

(c) For a period of four (4) months following the physical removal, the department or agency made reasonable efforts to assist the parent or parents or the guardian or guardians to establish a suitable home for the child, but that the parent or parents or the guardian or guardians have not made reciprocal reasonable efforts to provide a suitable home and have demonstrated a lack of concern for the child to such a degree that it appears unlikely that they will be able to provide a suitable home for the child at an early date. The efforts of the department or agency to assist a parent or guardian in establishing a suitable home for the child shall be found to be reasonable if such efforts equal or exceed the efforts of the parent or guardian toward the same goal, when the parent or guardian is aware that the child is in the custody of the department;

SECTION 4. Tennessee Code Annotated, Section 36-1-102(1)(D), is amended by inserting the following language immediately preceding the semicolon at the end of the subdivision:

. That the parent had only the means or ability to make small payments is not a defense to failure to support if no payments were made during the relevant four-month period

SECTION 5. Tennessee Code Annotated, Section 36-1-102(1)(E), is amended by inserting the following language immediately preceding the semicolon at the end of the subdivision:

. That the parent had only the means or ability to make very occasional visits is not a defense to failure to visit if no visits were made during the relevant four-month period;

SECTION 6. Tennessee Code Annotated, Section 36-1-102(44), is amended by deleting the language "cousins of the first degree" and substituting instead the language "cousins of the first degree, or first cousins once removed,".

SECTION 7. Tennessee Code Annotated, Section 36-1-113, is amended by redesignating subdivisions (d)(3)(A)(iv) and (v) as new subdivisions (d)(2)(E) and (F) respectively and by deleting the remainder of subdivision (d)(3)(A) and substituting instead the following:

(A) The petition, or allegations in the adoption petition, shall contain a verified statement that:

(i) The putative father registry maintained by the department has been consulted within ten (10) working days of the filing of the petition and shall state whether there exists any claim on the registry to the paternity of the child who is the subject of the termination or adoption petition;

(ii) Any putative father registry maintained by another state in which the child was born has been consulted within ten (10) working days of the filing of the petition and shall state whether there exists any claim on that registry to the paternity of the child who is the subject of the termination or adoption petition; and

(iii) If the petitioner knows or has reason to believe that the mother was living or present in another state at the time of the child's conception, any putative father registry maintained by that state has been consulted within ten (10) working days of the filing of the petition and shall state whether there exists any claim on that registry to the paternity of the child who is the subject of the termination or adoption petition.

SECTION 8. Tennessee Code Annotated, Section 36-1-116(b)(13)(A), is amended by deleting the language "putative father registry within ten (10)" and substituting instead the

language "Tennessee putative father registry and the putative father registry of any other state required by § 36-1-113(d)(3)(A) within ten (10)".

SECTION 9. Tennessee Code Annotated, Section 36-1-113(d)(3)(C)(i), is amended by deleting the subdivision and substituting instead the following:

(i) The petition or request for termination in the adoption petition, if granted, shall have the effect of forever severing all of the rights, responsibilities, and obligations of the parent or parents or the guardian or guardians to the child who is the subject of the order, and of the child to the parent or parents or the guardian or guardians;

SECTION 10. Tennessee Code Annotated, Section 36-1-113(g)(3), is amended by deleting the subdivision and substituting instead the following:

(3)

(A) The child has been removed from the home or the physical or legal custody of a parent or guardian for a period of six (6) months by a court order entered at any stage of proceedings in which a petition has been filed in the juvenile court alleging that a child is a dependent and neglected child, and:

(i) The conditions that led to the child's removal still persist, preventing the child's safe return to the care of the parent or guardian, or other conditions exist that, in all reasonable probability, would cause the child to be subjected to further abuse or neglect, preventing the child's safe return to the care of the parent or guardian;

(ii) There is little likelihood that these conditions will be remedied at an early date so that the child can be safely returned to the parent or guardian in the near future; and

(iii) The continuation of the parent or guardian and child relationship greatly diminishes the child's chances of early integration into a safe, stable, and permanent home.



(B) The six (6) months must accrue on or before the first date the termination of parental rights petition is set to be heard.

SECTION 11. Tennessee Code Annotated, Section 36-1-113(g)(4), is amended by deleting the subdivision and substituting instead the following:

(4) The parent or guardian has been found to have committed severe child abuse, as defined in § 37-1-102, under any prior order of a court or is found by the court hearing the petition to terminate parental rights or the petition for adoption to have committed severe child abuse against any child;

SECTION 12. Tennessee Code Annotated, Section 36-1-113(g)(14), is amended by deleting the language "A legal parent" and substituting instead the language "A parent".

SECTION 13. Tennessee Code Annotated, Section 36-1-114, is amended by deleting subdivision (3) and adding the following new subdivisions:

(3) Where, at the time the petition is filed, any respondent resides;

(5) Where the child became subject to the care and control of a public or private child-caring or child-placing agency; or

(6) Where the child became subject to partial or complete guardianship or legal custody of the petitioners as provided in this part.

SECTION 14. Tennessee Code Annotated, Section 36-1-115, is amended by deleting subsections (d) and (e) and substituting instead the following:

(d) The petitioner or petitioners shall live and maintain their regular place of abode in this state when the adoption petition is filed. Nonresidents may also file a petition to adopt a child in this state, if they file such petition in the county where a court granted the nonresidents partial or complete guardianship of the child.

(e) If one (1) or both of petitioners is an active duty service member in the United States military, the service member and any co-petitioner with the service member may file a petition for adoption in this state without actual residency in this state, if the service member has lived, or maintained a regular place of abode, within this state for six (6)

consecutive months immediately prior to entering military service or if this state is the service member's state of legal residence as identified to the United States military.

SECTION 15. Tennessee Code Annotated, Section 36-1-116(a)(1), is amended by deleting the word "may" wherever it appears in the subdivision and substituting instead the word "shall, except as otherwise provided by law," and by adding the following language before the period at the end of the end of the subdivision:

; provided, that the court may waive this requirement when the child is to be adopted by related persons

SECTION 16. Tennessee Code Annotated, Section 36-1-116(b)(1), is amended by deleting the subdivision and substituting instead the following:

(1) The full name of the petitioners; however, initials or a pseudonym may be used to promote the safety of the petitioners or of the child, with permission of the court;

SECTION 17. Tennessee Code Annotated, Section 36-1-113(d)(2), is amended by designating the existing language as subdivision (2)(A) and adding the following new subdivision:

(B) Initials or pseudonyms may be used in the petition in lieu of the full names of the petitioners to promote the safety of the petitioners or of the child, with permission of the court;

SECTION 18. Tennessee Code Annotated, Section 36-1-116(e)(6), is amended by deleting the subdivision and substituting instead the following:

(6) Court filings in adoption actions by public or private agencies or parties, offered as proof of parentage, termination of parental rights, or related to establishment or termination of guardianship, may be reviewed by all parties to the case unless the court grants a protective order. If there is no protective order, the agency that made the filing shall, at the time of the filing, send a paper or encrypted electronic copy of the filing to the attorney for the petitioners. Petitioners' counsel and the court must receive the submission at least two (2) business days prior to the scheduled hearing to finalize the

adoption. A protective order may be requested by motion of any party or by the agency that made the filing. A protective order shall be granted upon showing of good cause to restrict the information; such cause shall be proven by a preponderance of evidence. The protective order shall be as narrow as possible while still offering the protections that the court found to be warranted.

SECTION 19. Tennessee Code Annotated, Section 36-1-117(c)(1), is amended by deleting the language "pursuant to § 36-2-318," and substituting instead the language "pursuant to § 36-2-318, as described in § 36-1-113(d)(3)(A),".

SECTION 20. Tennessee Code Annotated, Section 36-1-117(c)(2), is amended by deleting the subdivision.

SECTION 21. Tennessee Code Annotated, Section 36-1-111(a)(2), is amended by deleting the language "When a parental consent is executed," and substituting instead the language "When a parental consent is executed, pursuant to § 36-1-117(g),".

SECTION 22. Tennessee Code Annotated, Section 36-1-111(d)(4), is amended by deleting the subdivision and substituting instead:

(4) No surrender or parental consent shall be valid if the surrendering or consenting party states a desire to receive legal or social counseling until such request is satisfied or withdrawn.

SECTION 23. Tennessee Code Annotated, Section 36-1-111, is amended by deleting subsection (e) in its entirety.

SECTION 24. Tennessee Code Annotated, Section 36-1-111(k)(1)(A), is amended by deleting subdivision (k)(1)(A) and substituting instead the following:

(A) When a person executing a surrender is unable to read, read in the English language, see, or otherwise unable to review and comprehend the surrender form and attachments offered for the person's signature or provided on the person's behalf, the person shall be provided with appropriate and sufficient assistance to make the documents and attachments understandable to the person both before and during the

surrender hearing. The accepting party shall be responsible for payment of the cost of such interpreter or assistance if the surrendering party requires such assistance.

SECTION 25. Tennessee Code Annotated, Section 36-1-111(k)(1)(B), is amended by deleting the subdivision and substituting instead the following:

(i) The court, or other persons authorized by this part to accept surrenders, shall personally verify under oath by the surrendering or consenting person who has provided the information required surrender or parental consent process pursuant to this part, that the parent or guardian agrees with the information provided in the forms and attachments and that such person does accept the surrender of the subject child.

(ii) The pre-surrender information forms for the birth parent and accepting party and all required attachments must be attached to the surrender or parental consent when the surrender and acceptance are executed and maintained with the surrender or parental consent form by the court or the court clerk, or person authorized by this part to accept surrenders, and transmitted to the department as otherwise required by this part.

SECTION 26. Tennessee Code Annotated, Section 36-1-111(k), is amended by deleting subdivisions (k)(2), (3), and (4) in their entireties.

SECTION 27. Tennessee Code Annotated, Section 36-1-111(l)(1), is amended by deleting the language "under subdivision (k)(2)(E)" and the language "certified as having been".

SECTION 28. Tennessee Code Annotated, Section 36-1-111(l)(2), is amended by deleting the language "under subdivision (k)(2)(F)" and the language "certified as having been".

SECTION 29. Tennessee Code Annotated, Section 36-1-111(m), is amended by deleting the subsection and substituting instead the following:

(m) Before the surrender is received and before an order of guardianship is entered based upon a parental consent, the person or persons to whom the child is to be surrendered or the persons to whom a parental consent is given, other than the department or a licensed child-placing agency, shall present with the surrender executed in this state or on a Tennessee form at the time of the execution of the surrender or

before confirmation of a parental consent by the court, a court report based upon a currently effective or updated home study or preliminary home study conducted by a licensed child-placing agency, a licensed clinical social worker, or the department.

SECTION 30. Tennessee Code Annotated, Section 36-1-111, is amended by deleting subsections (n), (o), (s), and (z) in their entirety.

SECTION 31. Tennessee Code Annotated, Section 36-1-111(w)(4), is amended by deleting the subdivision (w)(4) and substituting instead the following:

(4) The waiver of interest and notice may be executed at any time after the biological mother executes a statement identifying such person as the biological father or possible biological father of the biological mother's child to be born, or at any time after the birth of the child.

SECTION 32. Tennessee Code Annotated, Section 36-1-117(g)(2), is amended by deleting the language "pursuant to § 36-1-111(k), including the question regarding the contact veto required by § 36-1-111(k)(3)" and substituting instead the language "pursuant to § 36-1-111(b)(4)".

SECTION 33. Tennessee Code Annotated, Section 36-1-112(b), is amended by deleting the subsection in its entirety.

SECTION 34. Tennessee Code Annotated, Section 36-1-116(b)(12), is amended by adding the following as a new subdivision:

(C) When a parent uses the procedure for a consent in the adoption of an unrelated child the parent shall also complete the information form from § 36-1-111(b)(4) no later than when the petition is signed and such form shall be filed with the court. In order to confirm a parental consent in the adoption of an unrelated child, the surrender form provided at § 36-1-111(b)(2) shall be modified to reflect applicable law and executed by the same procedure provided for execution of a surrender.

SECTION 35. Tennessee Code Annotated, Section 36-1-124(d), is amended by deleting the subsection in its entirety.

SECTION 36. Tennessee Code Annotated, Section 36-1-108(d)(1), is amended by deleting the language "36-1-111(k)(4)(A)," in its entirety.

SECTION 37. Tennessee Code Annotated, Section 36-1-111(b), is amended by redesignating the current language as subdivision (b)(1) and adding the following new subdivisions:

(2) A surrender form shall be legally sufficient if it contains statements comparable to the "Form of Surrender" set forth in subdivision (b)(3). The information requested on the pre-surrender information forms under subdivisions (b)(4) and (b)(5) shall be collected, to the extent that such information is known to the surrendering or accepting party respectively, on the forms provided in subdivisions (b)(4) and (b)(5) or by a substantially similar method and shall be attached to the surrender form proffered to the judge or officiant for execution.

(3)

#### TENNESSEE SURRENDER FORM

I, (full name of surrendering party) \_\_\_\_\_,  
born (surrendering party's date of birth)\_\_\_\_\_, sign this surrender to end my  
parental rights and responsibilities to (full name of child)  
\_\_\_\_\_, born (child's date of birth)\_\_\_\_\_  
in (location of child's birth) \_\_\_\_\_. I am this child's (circle  
one) mother / father / possible father / guardian.

I surrender my parental rights to and request that this Court give guardianship to  
(a person/family with a current, approved home study, or a licensed child-placing  
agency)

\_\_\_\_\_  
I know I only have three (3) days to change my mind and revoke this decision  
after I sign this form. This decision may not be changed if I do not revoke this surrender  
on or before \_\_\_\_\_ (three days after today, calculated under Tennessee

Rule of Civil Procedure 6.01). To revoke, I must sign a revocation form before the Judge or officiant with me now or his or her successor.

I have completed the Surrendering Party Pre-Surrender Information Form. I have provided true and complete answers to all the questions on that form to the best of my knowledge.

I know that I should only sign this form if I want my parental rights terminated. If I want to talk to my own lawyer before I sign this form, I should tell the Judge or other officiant now and this surrender process will stop. I can talk to my lawyer and then decide if I still want to end my parental rights.

If anyone is putting pressure on me to sign this surrender, or trying to make me sign against my will, or has promised me something I value in order to make me want to sign this surrender, I understand that I should tell the Judge or officiant about that before I sign the form. The Judge or officiant will not allow me to be forced to sign this surrender.

No one is pressuring, threatening, or paying me to get me to sign this form. I believe voluntary termination of my parental rights is in the best interest of my child.

By signing below I voluntarily terminate my parental rights and surrender my child to the person(s) or agency listed above.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Surrendering Party's Signature

Judge or Officiant Attestation

I interviewed the surrendering party and witnessed execution of the foregoing surrender and as required by T.C.A. § 36-1-111. The surrendering party understands that he/she is surrendering parental rights to this child. There is no reason to believe that this is not a voluntary act.

The Surrendering Party's Pre-Surrender Information Form, the surrendering party's Social and Medical History Form, and if the surrender is to an individual, or individuals, as opposed to an agency, the individual's, or individuals', court report based upon a current and approved home study are attached to this form. The Pre-Surrender Information Form and Social and Medical History Form are properly verified by a notary or I reviewed the information with the surrendering party and he/she has attested before me to the correctness of those forms.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Judge or Officiant's Signature

Name and Title: \_\_\_\_\_

Court or Employing Institution and Location: \_\_\_\_\_

ACCEPTANCE BY AGENCY or PROSPECTIVE ADOPTIVE PARENT(S)

I/We \_\_\_\_\_ and \_\_\_\_\_

individually or I, \_\_\_\_\_, on behalf of the

licensed child-placing agency, \_\_\_\_\_, hereby

accept the surrender of \_\_\_\_\_ (child) from

\_\_\_\_\_ (surrendering party) and plan to adopt the

surrendered child or for an agency, expect and intend to place this child for adoption with an appropriate family. I/We or the undersigned agency have physical custody of this child or will have physical custody upon discharge of this child from a healthcare facility.

I/We or the undersigned agency agree(s) to assume responsibility for obtaining guardianship of the surrendered child through a court order within thirty (30) days of the date of the surrender. I/We or the undersigned agency agree(s), to be responsible for the care, custody, financial support, medical care, education, moral, and spiritual training of this child, pending an adoption.



I/We have completed the Accepting Party's Pre-Acceptance Information Form. The information provided in that form is true and to the best of my/our knowledge.

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Signature of Prospective Adoptive Parent

\_\_\_\_\_

Signature of Prospective Adoptive Parent

\_\_\_\_\_

Signature of Agency Representative and Title

Judge or Officiant Attestation

I interviewed the accepting parties and witnessed execution of the foregoing acceptance. The Accepting Party's Pre-Acceptance Information Form and any accepting individual's/individuals' court report based upon a current and approved home study are attached to this form. The Accepting Party's Pre-Acceptance Information Form is properly verified by a notary or I reviewed the information with the accepting parties and they have attested before me to the correctness of the form.

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Judge or Officiant's Signature

Name and Title: \_\_\_\_\_

Court or Employing Institution and Location: \_\_\_\_\_

SURRENDERING PARTY'S PRE-SURRENDER INFORMATION FORM

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Being duly sworn according to law, affiant would state:

1. I am:

a. Mother \_\_\_\_\_

(Date of Birth) \_\_\_\_\_ or

b. Father: \_\_\_\_\_

(Date of Birth) \_\_\_\_\_ or

c. Legal Guardian: \_\_\_\_\_

(Date of Birth) \_\_\_\_\_ of:

2.

a. Child's Name

\_\_\_\_\_

b. Child's Date of Birth

\_\_\_\_\_

c. Child's Place of Birth

\_\_\_\_\_

d. Child's Sex

\_\_\_\_\_

e. Child's Race

\_\_\_\_\_

3. This child was born in wedlock ☐ / out of wedlock ☐ / in wedlock but the mother's husband is not the child's biological father ☐.

4. State the names and relationships of any other legal parents, putative fathers, and legal guardians for this child:

a.

(1) Name

\_\_\_\_\_

(2) Relationship to the child

\_\_\_\_\_

(3) Address \_\_\_\_\_

(4) City, State, Zip

\_\_\_\_\_

(5) Telephone Number: Home: \_\_\_\_\_ Work: \_\_\_\_\_

(6) Other identifying information concerning the above identified other legal or biological parent/legal guardian.

\_\_\_\_\_

b.

(1) Name

\_\_\_\_\_

(2) Relationship to the child

\_\_\_\_\_

(3) Address

\_\_\_\_\_

(4) City, State, Zip

\_\_\_\_\_

(5) Telephone Number: Home: \_\_\_\_\_ Work: \_\_\_\_\_

(6) Other identifying information concerning the above identified other legal or biological parent/legal guardian.

\_\_\_\_\_

5. If the above named parties' whereabouts are unknown, please describe why that is the case: \_\_\_\_\_

6. Is the child or surrendering parent or another legal parent of the child a member of a federally recognized American Indian or Alaskan Native tribe? \_\_\_\_\_

If "yes," please provide the name and address of the tribe, all available information regarding the tribal membership, including a membership number if there is one, or the basis for the belief that one may be a tribal member. If there is a tribal membership card or tribal enrollment document please provide a copy by attaching it to this form.

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7.

a. Will this child be sent out of Tennessee to another state for adoption?

Yes ☐ No ☐

b. If yes, name of state: \_\_\_\_\_

8. Have you been paid, received, or promised any money or other remuneration or thing of value in connection with the birth of the above-named child or placement of this child for adoption?

Yes ☐ No ☐ If no, go to #10.

If yes, please list the amount paid, to whom the payment was made, whom made the payment, when was the payment made, and for what purpose the payment was made:

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9. Does the child own any real or personal property? Yes ☐ No ☐. If yes, please describe property, its value, and any relevant circumstances:

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10.

a. I currently have ( ) legal, ( ) physical, or ( ) legal and physical custody of the child.

b. If someone else has legal or physical custody of the child, please identify the person or agency that holds custody of the child and whether they have legal custody, physical custody, or both.

For a custodian, other than the surrendering party, please list the custodians:

Custodian(s)

---

Street

---

City \_\_\_\_\_, State \_\_\_\_\_, Zip \_\_\_\_\_

Telephone Number: Home: \_\_\_\_\_ Work: \_\_\_\_\_

11.

a. There may be state assistance- money, classes, health insurance, food aid and such, available to help you if you parent the child yourself.

b. There is counseling available if you want to talk to a counselor about your choice before you sign a surrender form.

c. You can talk to a lawyer who only represents you, if you want to, before you sign a surrender form.

Do you understand that all these things are available? Yes ☐ No ☐

## 12. Contact Veto.

I understand that information about who I am, where I live, my social and medical history and other similar information will be available to the adopted person when he/she is 21 years old or older if the adopted person asks for the information. Identifying information about me will not be released if I am the victim of rape or incest and that fact is known to DCS and I have not consented to release of the information. Even if the adopted person obtains information about me, I understand that I may direct that the adopted person not be allowed to contact me by registering a "contact veto" on this form or separately with the Tennessee Department of Children's Services at:

Contact Veto Registry  
Post Adoption Unit  
Tennessee Department of Children's Services  
315 Deaderick Street  
USB Tower, 9th Floor  
Nashville, TN 37243

I may also change my previously expressed direction regarding contact at the same address. If I am contacted in violation of a contact veto, the adopted person will be guilty of a Class B misdemeanor and I can sue them for injunctive relief and compensatory and putative damages and attorney's fees.

- a. Do you want to register a contact veto in order to prevent the adopted person from contacting you in the future? Yes ☐ NO ☐.
- b. If identifying information about you is going to be released to the adopted person do you want to be notified before the information is released? Yes ☐ No ☐.
- c. Please supply a permanent address and telephone number for the Department to use to consult with you regarding release of information about you to the adopted person:

\_\_\_\_\_  
\_\_\_\_\_

- d. Please describe any other directions regarding future contact and or any information you want passed on to the adopted person:

\_\_\_\_\_  
\_\_\_\_\_

FURTHER, AFFIANT SAITH NOT.

This the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

Signature: Biological ☐ Legal ☐ Mother \_\_\_\_\_

Biological ☐ Legal ☐ Father \_\_\_\_\_

Legal Guardian \_\_\_\_\_ of

\_\_\_\_\_

Name of Child

Sworn to and subscribed before me this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

(A notary is necessary if information on this form is not reviewed by and acknowledged  
before a Judge or officiant.)



(5)

ACCEPTING PARTY'S PRE-ACCEPTANCE INFORMATION FORM

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Being duly sworn affiants would state:

1.

a. I am \_\_\_\_\_, Prospective Adoptive Parent.

b. Prospective Adoptive Parent's Date of Birth

\_\_\_\_\_

c. Prospective Adoptive Parent's Place of Birth

\_\_\_\_\_

d. Prospective Adoptive Parent's Marital Status

\_\_\_\_\_

2.

a. I am \_\_\_\_\_, Prospective Adoptive Parent.

b. Prospective Adoptive Parent's Date of Birth

\_\_\_\_\_

c. Prospective Adoptive Parent's Place of Birth

\_\_\_\_\_

d. Prospective Adoptive Parent's Marital Status

\_\_\_\_\_

3. The following costs have been paid or promised by \_\_\_\_\_ for activities involving the placement of this child. (me/us)

Please include, amount paid or promised, to whom, by whom, date paid and type of service or cost:

\_\_\_\_\_

\_\_\_\_\_

4. I am \_\_\_\_\_,  
representative of \_\_\_\_\_, a  
licensed child placing agency with offices at:

\_\_\_\_\_

- 5.
- a. \_\_\_\_\_ I/We have physical custody of this child; or
- b. \_\_\_\_\_ I/We will receive physical custody of the child from the parent or legal guardian within five (5) days of this surrender. The affidavit required by T.C.A. § 36-1-111(d)(6) of the custodial parent or guardian to this effect has been presented to the court at this time; or
- c. \_\_\_\_\_ I/We have the right to receive physical custody of the child upon his or her release from a hospital or health care facility, and the affidavit of the custodial parent or guardian to this effect required by T.C.A. § 36-1-111(d)(6) has been presented to the court at this time;
- d. \_\_\_\_\_ Another person or agency currently has physical control of the child. I/We have presented to the court an affidavit of the person or agency required by T.C.A. § 36-1-111(d)(6) which indicates their waiver of right to custody of the child upon entry of a guardianship order pursuant to T.C.A. § 36-1-136(r).

6. Yes ☐ No ☐ I/We have presented to the court a currently effective or updated home study or preliminary home study of my/our home conducted by a licensed child-placing agency, a licensed clinical social worker, or the Tennessee Department of

Children's Services as required by Tennessee law. (Not applicable for agency placements)

7.

a. If the child is to be removed from Tennessee for adoption in another state, will there be compliance with the Interstate Compact on the Placement of Children.

Yes ☐ No ☐ Not Applicable ☐.

b. If yes, who will be responsible for preparing and submitting the ICPC package?

\_\_\_\_\_

FURTHER AFFIANT(S) SAITH NOT

This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_

Signature of Prospective Adoptive Parent

\_\_\_\_\_

Signature of Prospective Adoptive Parent

OR

\_\_\_\_\_

Signature of Representative of Agency

Name of Agency: \_\_\_\_\_

Sworn to and subscribed before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

(A notary is necessary if information on this form is not reviewed by and acknowledged  
before a Judge or officiant.)

(6)

REVOCATION OF SURRENDER BY A PARENT OR GUARDIAN

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Being duly sworn according to law affiant would state:

1. I am:

a. Mother: \_\_\_\_\_

b. Father: \_\_\_\_\_, or

c. Legal Guardian: \_\_\_\_\_, of:

2.

a. Child's Name: \_\_\_\_\_

b. Child's Date of Birth: \_\_\_\_\_

c. Child's Place of Birth: \_\_\_\_\_

d. Child's Sex: \_\_\_\_\_

e. Child's Race: \_\_\_\_\_

3. On (Date) \_\_\_\_\_, I executed a surrender of my parental or guardianship rights to the child named in #2 to:

a. Prospective Adoptive Parent(s)

\_\_\_\_\_

b. Licensed Child-Placing Agency

\_\_\_\_\_

c. Tennessee Department of Children's Services

\_\_\_\_\_

4. The surrender was executed before:

\_\_\_\_\_

(Name of Judge or Officiant)

5. I hereby revoke the surrender of the above-named child.

FURTHER AFFIANT SAITH NOT.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signature:

Biological \_\_\_\_\_ Legal \_\_\_\_\_ Mother:

\_\_\_\_\_

Biological \_\_\_\_\_ Legal \_\_\_\_\_ Father:

\_\_\_\_\_

Legal Guardian:

\_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

This Revocation of Surrender was received by me on the \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_\_.

Please Print: \_\_\_\_\_

Signature: \_\_\_\_\_

Judge or Officiant

SECTION 38. This act shall take effect July 1, 2018, the public welfare requiring it.

Amendment No. \_\_\_\_\_

\_\_\_\_\_  
Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 2268**

**House Bill No. 2134\***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 36-5-101(f)(1), is amended by deleting the third and fourth sentences of the subdivision and substituting instead the following:

If the full amount of child support is not paid by the date when the ordered support is due, the unpaid amount that is in arrears, shall become a judgment for the unpaid amounts, and shall accrue interest pursuant to subdivision (f)(1)(B).

SECTION 2. Tennessee Code Annotated, Section 36-5-101(f)(1), is amended by redesignating the subdivision as subdivision (f)(1)(A) and adding the following subdivision (f)(1)(B):

(B)

(i) Interest on unpaid child support that is in arrears shall accrue from the date of the arrearage at the rate of twelve percent (12%) per year; provided, that interest shall no longer accrue on or after April 17, 2017, unless the court makes a written finding that interest shall continue to accrue. In making such finding, the court shall set the rate at which interest shall accrue after consideration of any factors the court deems relevant; provided, that the interest rate shall be no more than four percent (4%) per year.

(ii) On or after July 1, 2018, interest on arrearages in non-Title IV-D cases shall accrue at the rate of six percent (6%) per year; provided, however, that the court, in its discretion, may reduce the rate of interest to a lower interest rate, including no interest, as deemed appropriate under the circumstances. In



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making its determination, the court may consider any factors the court deems relevant.

(iii) On or after July 1, 2018, interest shall not accrue on arrearages in Title IV-D cases unless the court makes a written finding that interest shall continue to accrue. In making such finding, the court shall set the rate at which interest shall accrue after consideration of any factors the court deems relevant; provided, that the interest rate shall be no more than six percent (6%) per year.

SECTION 3. This act shall take effect July 1, 2018, the public welfare requiring it.